UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 17-107 (DWF/TNL)

UNITED STATES OF AMERICA,

Plaintiff,

v.

**MOTION FOR A PROTECTIVE ORDER**

MICHAEL MORRIS *et al.*,

Defendants.

The United States of America, by and through its attorneys, Gregory G. Brooker, Acting United States Attorney for the District of Minnesota, and Julie E. Allyn, Laura M. Provinzino, and Melinda A. Williams, Assistant United States Attorneys, hereby moves the Court for an order protecting the dissemination of discovery in this case, including personal identifying information, pursuant to Rule 16(d)(1) of the Federal Rules of Criminal Procedure. In support of its motion, the United States alleges and states the following:

1. This superseding indictment is a result of an ongoing sex trafficking and money laundering scheme that is responsible for trafficking Thai nationals from Bangkok to Los Angeles, Seattle, Phoenix, Chicago, Minneapolis, Atlanta, and other places within the United States, for the purposes of prostitution. As a result of the investigation, on September 26, 2016, seventeen members of the criminal organization were indicted in *United States v. Sumalee Intarathong et al.*, 16-cr-257 (DWF/TNL) in the District of Minnesota. The defendants were charged with multiple federal criminal violations

including Conspiracy to Commit Sex Trafficking, Sex Trafficking by Use of Force, Fraud and Coercion, Conspiracy to Engage in Money Laundering, and other charges. On May 16, 2017, twenty-one additional members of the same sex trafficking organization were indicted by superseding indictment in the District of Minnesota in *United States v. Michael Morris*, 17-cr-107 (DWF/TNL), and charged with a variety of offenses, including (1) conspiracy to commit sex trafficking; (2) sex trafficking by use of force, threats of force, fraud, and coercion; (3) conspiracy to commit transportation to engage in prostitution; (4) conspiracy to engage in money laundering; (5) conspiracy to use a communication facility to promote prostitution; and (6) operating an unlicensed money transmitting business over the time period of January 2009 through May 2017.

2. On June 2, 2017, the United States filed a motion to designate case as complex under the Speedy Trial Act, Doc. No. 78, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(ii). The government anticipates this Court will grant the motion as it had in the companion and predecessor *Intarathong et al.* case. *See* Order (Doc. No. 81). A separate Order setting a trial date and all other pre-trial deadlines, including disclosure deadlines, motions deadlines, motion hearing, and pre-trial filings is likely forthcoming.

3. As the government noted in its complex case motion, the discovery materials involved in this case are voluminous. As of the instant filing, the discovery materials include over 44,000 pages of written materials. This is in addition to the electronic discovery in the case, which includes the results of numerous email search warrants, audio recordings, surveillance footage, and the results of the searches of numerous electronic

devices, including cell phones and computers, many of which were seized as part of the nationwide takedown on May 24, 2017. While the government may make some discovery materials available for defense review at the U.S. Attorney's Office, the vast majority of the documents and electronic discovery will be produced directly to defendants' counsel. Indeed, the first round of production in *United States v. Sumalee Intarathong et al.*, 16-cr-257 (DWF/TNL), required defense counsel to provide a hard drive that could hold at least 250 GB of data. The discovery is significantly larger than that now.

4. The above-referenced discovery materials contain a variety of sensitive materials, to include personal identity information of victims and others involved in the sex trafficking organization, including names, nicknames, dates of birth, social security numbers, photographs of individuals, visa and other immigration identifiers, driver's license numbers, bank account numbers, home addresses, and passport information. Additionally, the discovery materials include numerous escort-style photographs, including nude and partially-nude photographs, of many of the women trafficked by this organization, photographs that were later used to advertise the women for commercial sex acts.

5. Given both the volume and the nature of these sensitive materials, full redaction would be impractical, unduly burdensome, and would potentially impede defense counsels' preparation.[1] However, unrestricted disclosure and/or dissemination of this

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[1] The government does intend to redact from the discovery materials certain highly sensitive identity information, such as select witness/confidential informant identity

information could result in a variety of harms, including violating the privacy rights of victims and the risk of identity theft and fraud stemming from the disclosure of personal identity information, such as social security numbers and bank records. Moreover, the government is extremely concerned about witness security in this case where, as detailed in the Superseding Indictments, threats have been made to victims in the case, including threats involving the families of victims located outside of the United States.

6. Discovery of evidence in criminal cases is governed by the provisions of Rule 16 of the Federal Rules of Criminal Procedure. Rule 16(d)(1) grants trial courts broad powers to regulate and protect discovery through the use of protective and modifying orders, explaining that, at any time, "the court may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief." The use of protective orders to restrict the use of discovery materials is well established and has been repeatedly affirmed by the appellate courts. *See Alderman v. United States*, 394 U.S. 165, 185 (1969) ("the trial court can and should, where appropriate, place a defendant and his counsel under enforceable orders against the unwarranted disclosure of materials which they may be entitled to inspect"); *United States v. Lee*, 374 F.3d 637, 652 (8th Cir. 2004) (affirming the district court's order to limit the defendant's access to discovery materials based on witness security concerns); *United States v. Pelton*, 578 F.2d 701, 707 (8th Cir. 1978) (affirming protective order in Mann Act case where the purpose of the protective order "was to protect

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information and the identity information for any undercover law enforcement officers identified in the discovery materials.

the identity of persons cooperating on the case"); *United States v. Barbeito*, 2009 WL 3645063, *1 (S.D. W.Va. 2009) (upholding protective order limiting the identity materials provided to defendants where there were "allegations and evidence in the record already of efforts to harm informants by at least some of the defendants in this case").

7. Accordingly, the United States respectfully requests that this Court enter a Protective Order limiting the dissemination of "Protected Material" as it did in *Intarathong et al*. *See* Protective Order (Doc. No. 131). Protected Material includes the names and nicknames of any non-party individual (*i.e.*, individuals who are not defendants). Protected Material also includes the personal identity information of any individual, to include dates of birth, social security numbers, driver's license numbers, bank account numbers, home addresses, telephone numbers, photographs of individuals, visas, passports, and other immigration identifiers, family identifiers, and any other similar personal identity information. Protected Material also includes all escort-style photographs involved in the case.

8. It is further requested that the Protective Order state: (a) that the Protected Material shall be held in strict confidentiality by defendants' counsel and may be used only for purposes of this litigation; (b) that defendants' counsel shall limit the making of copies of the Protected Material to those necessary to his or her activities as counsel to the respective defendant in this action; (c) that no copies of Protected Material may be distributed to the defendants in this case, other than copies of Protected Material that contain a defendant's own personal identifiers (such as a defendant's own bank records);

(d) that defense counsel may not show the Protected Material to the defendants or in any other way advise the defendants of the identity information contained in the Protected Material; (e) that all individuals having access to the Protected Material shall be informed of the terms of the Protective Order prior to disclosure and shall certify, by signing a copy of the Protective Order, that they have read the terms of the Protective Order and understand that they are bound by these terms; (f) that the use of the Protected Material covered by the Protective Order for any purpose other than the instant litigation shall be deemed a violation of the Protective Order punishable by sanctions; (g) that any filings with the Court that contain Protected Material shall be filed under seal and handled consistent with Rule 49.1; and (h) that any documents or other materials containing the Protected Material, and all copies of them, must be destroyed or returned to the Government within sixty days of the conclusion of this litigation, except that defendants' counsel may retain one copy of these materials.

Dated: June 5, 2017

Respectfully Submitted,

GREGORY G. BROOKER
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s/Laura M. Provinzino

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